

NORTH CAROLINA

BEFORE THE BOARD OF COMMISSIONERS

DAVIDSON COUNTY

AMENDED

**AN ORDINANCE TO ESTABLISH AND REGULATE A
SCHOLARSHIP PROGRAM FOR STUDENTS PURSUING
A COURSE OF STUDY AND A CAREER IN THE
TEACHING PROFESSION**

Section 1: Enactment and Citation.

The Davidson County Board of Commissioners hereby enacts this Ordinance, which may be cited and shall be known as the Davidson County Teaching Scholarship Ordinance.

Section 2: Findings, Purpose and Intent.

(a) The Board of Commissioners recognizes that the quality education of students within Davidson County is essential to the enhancement of the overall general welfare of the citizenry of Davidson County and that the knowledge of the citizens is necessary to good government and to the happiness of mankind. The presence of excellent and dedicated teachers in schools in Davidson County is extremely important and valuable to the proper education and training of students in the schools in Davidson County and the health, welfare and general condition of the citizens of Davidson County. Further, the Board of Commissioners finds that there exists a need to attract quality teachers for the schools which serve the citizens of Davidson County. In particular, the Board of Commissioners recognizes that many individuals do not pursue employment as a teacher in the schools because of the disparity between the salaries of school teachers and the salaries of persons in other professions or employment. Additionally, residents of Davidson County have a unique familiarity with the economic, social and cultural environment of Davidson County and the presence of such persons as teachers in schools in Davidson County will facilitate the education of public school students in Davidson County. The Board of Commissioners declares that the adequate education of the students of Davidson County is a recognized object of County government and that well-educated and trained teachers for the school students in Davidson County should be encouraged by Davidson County government.

(b) This Ordinance is intended to encourage residents of Davidson County who attend or will attend post-secondary institutions to teach students in schools in Davidson County by offering and funding scholarships for qualified students at post-secondary institutions to help defray tuition and other expenses associated with attending such institutions. Recipients of these scholarships will be required to enter into a contract with Davidson County to perform obligations including, but not limited to, obtaining the necessary training and certifications to teach in the schools in North Carolina and in Davidson County and seeking, obtaining and maintaining employment as teachers in approved schools in Davidson County. This Ordinance is not intended

and shall not be construed to interfere with the personnel policies of any school or school system or the employment relationship between a recipient and any school and shall not require any school or school system to hire or retain any recipient. Because scholarship recipients will be required to enter into a contract with Davidson County, the application and award process is designed to assure that recipients possess the legal capacity to contract with Davidson County.

The Board of Commissioners recognizes and intends that every applicant and recipient must be assured and accorded due process of law in the application and award process. It is intended that no decision regarding an application or award or rescission or revocation of an award shall be made in an arbitrary or capricious manner. Further, no scholarship shall be rescinded or revoked by Davidson County or the Board of Commissioners without affording the recipient a fair and adequate hearing to contest such rescission or revocation.

This Ordinance is intended to award scholarships only to high school seniors who have been accepted into a post-secondary institution, those currently attending a post-secondary institution, or recent graduates of post-secondary education programs which comply with the requirements of Chapter 115C for compliance with the compulsory school attendance laws of North Carolina and is not intended to encourage any person to violate or circumvent such laws. The scholarships are intended to be generally allocated among residents of Davidson County who are seniors in or have graduated from county school administrative units, city school administrative units, private schools or home schools. The Scholarship Program created by this Ordinance is not intended to be a "needs-based" program. Therefore, no scholarships shall be awarded based upon the financial need or condition of an applicant and accordingly Davidson County will neither solicit nor consider financial information regarding an applicant.

Davidson County will comply with the Open Meetings Law and Public Records Law of North Carolina in the administration of the Scholarship Program. To the extent permitted or required by law, Davidson County will endeavor to protect confidential information submitted by applicants.

The Board of Commissioners intends that the needs of the schools shall be considered by the Scholarship Review Committee in awarding scholarships.

This Scholarship Program shall be funded by donations and by local revenues.

Section 3: Authority.

Davidson County has the authority to use local revenues to add to school programs and therefore may enact ordinances to implement such additions or supplements. Davidson County is authorized by N.C.G.S. §153A-449 to enter into contracts with any person to carry out any public purpose which Davidson County may engage in and may appropriate money for such programs. The education of students in Davidson County is a public purpose and facilitation of teachers for school students in Davidson County is a public purpose for which Davidson County may contract with

persons. Pursuant to N.C.G.S. §153A-255, Davidson County may undertake, sponsor, organize, engage in and support social service programs intended to further the health, welfare, education, safety, comfort and convenience of the citizens of Davidson County. These social service programs authorized by N.C.G.S. §153A-255 are in addition to and separate from the social service programs listed in Chapters 108A and 111 of the North Carolina General Statutes which Davidson County is required by N.C.G.S. §153A-255 to provide. The Davidson County Teaching Scholarship Program is declared to be a social service program. The General Assembly has declared in N.C.G.S. §153A-4 that Davidson County should have adequate authority to exercise the powers, rights, duties, functions, privileges and immunities conferred upon it by law and that the provisions of N.C.G.S. §153A-255 and other provisions of Chapter 153A of the North Carolina General Statutes shall be construed to include any powers that are reasonably expedient to the exercise of the power. According to the courts of North Carolina, Davidson County may exercise those powers granted in express words, those powers necessarily or fairly implied in or incident to those powers expressly granted and those powers essential to the accomplishment of the declared objects and purposes of Davidson County.

Section 4: Definitions.

As used in this Ordinance, the following terms shall have the following meanings:

(a) **Affirmative defense** shall mean a ground raised by the recipient or responsible adult to contest the rescission of the contract by Davidson County other than the grounds for rescission set forth in Section 11(f). Affirmative defenses shall expressly include by way of illustration only and not limitation fraud, impossibility of performance, frustration of purpose and statute of limitations and may include any factual basis to support any affirmative defense.

(b) **Applicant** shall mean a person who files an application for a scholarship.

(c) **Award** shall mean the decision of the Scholarship Review Committee to grant to an applicant a scholarship and shall constitute an offer by Davidson County to an applicant to enter into a contract.

(d) **Committee** shall mean the Scholarship Review Committee established by this Ordinance.

(e) **Contract** shall mean an offer made by Davidson County, as manifested by the award of a scholarship by the Scholarship Review Committee, which is accepted by the recipient without the variance of any term or provision and creates a binding agreement between Davidson County and the recipient or any responsible adult who enters into such contract.

(f) **Davidson County Schools** shall mean the Davidson County School system.

(g) **Domicile or place of domicile** shall mean a place where an applicant has his true, fixed, and permanent home and principal establishment and to which whenever the applicant is absent he has the intention of returning. A temporary or transient place of residence shall not be considered a place of domicile.

(h) **Home school** shall mean a nonpublic school in North Carolina, as permitted by N.C.G.S. §115C-564, in which one or more children of not more than two families or households receive academic instruction from parents or legal guardians or a member of either household and in which all persons providing academic instruction in such school hold at least a high school diploma or its equivalent and which annually administers a nationally standardized test or other nationally standardized equivalent measurement which evaluates achievement in the areas of English grammar, reading, spelling and mathematics as required by N.C.G.S. §115C-564 and the statutes cited therein.

(i) **Lexington City Schools** shall mean the Lexington City School system.

(j) **Nonpublic school** shall mean a school (i) which is not operated or controlled by a county school administrative unit or a city school administrative unit or any other public school system and (ii) which (1) is accredited by the North Carolina State Board of Education or (2) is accredited by the Southern Association of Colleges and Schools or (3) is an active member of the North Carolina Association of Independent Schools or (4) receives no funding from the State of North Carolina and (iii) which is permitted by N.C.G.S. §115C-555 to be established and to operate as a nonpublic school.

(k) **Post-secondary institution** shall mean an institution which offers a bachelor-level degree in Education or substantially similar major course of study.

(l) **Private church schools or schools of religious charter** shall mean schools in North Carolina, as permitted by N.C.G.S. §115C-547, which (1) are operated or controlled by a religious organization or are established by a religious charter, (2) operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year, (3) administer at least once per academic year a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school to all students enrolled or regularly attending grades three, six and nine, and (4) administer at least once per each academic year a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school to all students enrolled and regularly attending the eleventh (11th) grade. For purposes of clause three of this subsection, a nationally standardized test or other nationally standardized equivalent measurement shall refer to a test or measurement which evaluates achievement in the areas of English grammar, reading, spelling and mathematics. For purposes of clause four of this subsection, such test or measurement shall measure in verbal and quantitative areas.

(m) **Private school** shall mean a school in North Carolina which is either a (1) private religious school or school of religious charter or (2) a nonpublic school other than a home school.

(n) **Public school in North Carolina** shall mean a school which is operated and controlled by a county school administrative unit or a city school administrative unit and is located within North Carolina.

(o) **Recipient** shall mean a person who is awarded a scholarship by the Scholarship Review Committee.

(p) **Resident of Davidson County** shall mean a person domiciled in Davidson County, North Carolina. An address which is printed on a duly issued North Carolina Drivers' License or Identification Card and which shows a residential address in Davidson County shall be prima facie evidence that such person is a resident of Davidson County. Proof of residence in Davidson County may be established by other proper and reliable evidence.

(q) **Responsible adult** shall mean a parent, legal guardian or person standing *in loco parentis* of an applicant and recipient of a scholarship.

(r) **Scholarship or Scholarship Program** shall mean the Davidson County Teaching Scholarship Program and the grant of funds by Davidson County to an applicant pursuant to this Ordinance.

(s) **Student** shall mean a person who at the time the scholarship is to be awarded is a senior in a county school administrative unit, city school administrative unit, private school or home school or attends a post-secondary academic institution as a full-time student as defined by such institution.

(t) **Thomasville City Schools** shall mean the Thomasville City School system.

Section 5: Description of Scholarship.

The Board of Commissioners hereby establishes the Davidson County Teaching Scholarship Program which shall be administered and regulated as set forth in this Ordinance. Davidson County shall annually grant to eligible recipients scholarships to pay for the recipients' tuition, room and board, books and other course materials, and other reasonable and customary living expenses incurred or to be incurred by the recipient during the recipient's attendance at a post-secondary institution while pursuing a degree in education for the purpose of obtaining a teacher's certification in North Carolina. Recipients of scholarships may not use any funds awarded pursuant to this program and Ordinance for any purpose which is not listed herein. The Scholarship Program shall be conducted on a calendar year basis, and the total amount of each scholarship shall be as set from time to time by the Board of Commissioners. If the recipient is not a senior at a post-secondary institution, the amount of the scholarship shall be divided by the number of full remaining years required to obtain a bachelor's

degree. Example: If the recipient has not entered the first year of a post-secondary institution, the recipient shall receive one-fourth of the amount of the scholarship and shall receive one-fourth of the amount of the scholarship prior to each subsequent school year, provided the post-secondary institution has verified enrollment and the grade-point average of 2.8 or the equivalent for the preceding school year. Recipient shall not be eligible to receive the remaining amount of the scholarship if the enrollment and the grade-point average of 2.8 or the equivalent are not attained and verified.

Section 6: Scholarship Review Committee.

(a) **Committee Established:** A Scholarship Review Committee is hereby created and shall hereafter be referred to as the Committee.

(b) **Duties and Powers of Committee:** The Committee shall have the duty to evaluate and obtain information on applicants for scholarships and to award scholarships. To perform these duties, the Committee is authorized to receive and review information submitted by or on behalf of the applicant, to contact employers, instructors, persons submitting references and other persons listed by the applicant and appropriate school officials and employees to verify information submitted by the applicant and to gather any information relevant to the decision making process of the Committee. The Committee may consult with school officials and other interested persons to obtain information relevant to the needs of the schools and to permit the Committee members to perform their duties. The Committee members shall assure that each applicant meets the eligibility requirements set forth in this Ordinance. Any applicant who fails to meet ***all*** of the eligibility requirements shall not be considered for or awarded a scholarship by the Committee.

(c) **Selection of Committee Members:** (i) *Composition.* The Committee shall consist of nine (9) regular voting members and three (3) alternates. The nine (9) regular voting members shall be comprised of the Superintendent of the Davidson County Schools or designee, the Superintendent of the Lexington City Schools or designee, the Superintendent of the Thomasville City Schools or designee, one (1) County Commissioner, one (1) representative of the home school sector in Davidson County nominated by the operators and instructors of home schools in Davidson County, one (1) representative of the private school sector in Davidson County nominated by the operators and instructors of the private schools in Davidson County and three (3) members of the general population of Davidson County. The Board of Commissioners may appoint any person as an alternate. The Chairperson and Vice Chairperson shall be selected from the regular voting members by the Board of Commissioners. All appointments for regular voting members other than the superintendents of the school systems or designees, alternates, the Chairperson and Vice Chairperson shall be made by a majority vote of the Commissioners present and voting at a duly held meeting of the Board of Commissioners. The Board of Commissioners shall not be prohibited from appointing a person to the Committee because such person would be or could become disqualified from considering or deciding upon a particular scholarship application. The Davidson County Attorney shall serve as legal counsel and Clerk to the Scholarship Review Committee.

(ii) *Terms.* Initially, terms of service on the Committee shall be as follows: three regular voting members and one alternate shall serve one-year terms; three regular voting members and one alternate shall serve two-year terms; and three regular voting members and one alternate shall serve three-year terms. After each initial term is completed, the term of service on the Committee shall be three years for all regular voting members and alternates. It is the purpose of this subsection to create staggered terms for service as regular voting members and alternates on the Committee. Notwithstanding the length of a term established in this subsection, all regular voting members, alternates, the Chairperson and Vice Chairperson shall serve in their respective positions ***at the pleasure of the Board and may be removed by a majority vote of the Commissioners present and voting at a duly held meeting with or without cause.*** No person shall serve more than two (2) consecutive terms on the Committee and shall serve no more than four (4) terms total.

(d) **Compensation:** No regular voting member or alternate shall receive any salary or similar compensation for service on the Committee. However, regular voting members and alternates are entitled to reimbursement for travel to duly convened meetings of the Committee. The reimbursement shall be paid by Davidson County at the Davidson County rate.

(e) **Conduct of Committee:** (i) *Meetings.* The Committee shall establish and publish a schedule of its regular meetings. The Committee may set days and times to assure the regular attendance of all regular voting members and alternates and the public to the extent that the public is entitled by law to attend such meetings. Meetings shall be held on the Fourth Floor, Commissioners Meeting Room, of the Davidson County Governmental Center. All deliberations and discussions regarding applicants shall be held in closed session upon proper motion and voting in open session by a majority of voting members present. A motion to enter into closed session shall state that the purposes of such session are to prevent the premature disclosure of a scholarship and to consider information which is privileged or confidential pursuant to 20 U.S.C. §1232g. To prevent the premature disclosure of scholarships, the Committee shall be permitted in closed session to make award decisions and shall not be required to publish or announce the names of recipients until all awards have been made and all applicants have been sent notification of the Committee's decision. The Committee shall also be permitted to enter into closed session to consult with and instruct legal counsel regarding the handling or settling of any claim, judicial action or administrative procedure arising out of the Committee's action or to receive legal advice from legal counsel. The Committee shall promptly notify all applicants in writing of the Committee's decision. Pursuant to N.C.G.S. §143-318.11(e), a general account of closed meetings shall be kept in writing or sound or video and sound recordings. Such general account shall be withheld from public inspection until such time that all scholarship decisions have been made at which time such general account shall be considered a public record within the meaning of N.C.G.S. §132-1 and shall be available for public inspection. All educational records submitted by the applicant are considered privileged and confidential pursuant to 20 U.S.C. § 1232g and are not considered public records under N.C.G.S. §132-1. A quorum shall be established upon the attendance of at least seven (7) regular voting members or alternates. If a regular voting member is not present at a meeting or is disqualified from taking particular action, an alternate shall

serve in place of that absent or disqualified regular voting member and shall be considered a voting member for the period of that member's absence or disqualification. The rotation or scheduling of service by alternates shall be as established by the Committee.

(ii) *Procedures for Evaluation and Awards.* The Committee is authorized to establish procedures and rules for the guidance of the Committee in the evaluation and awarding of scholarships which are not inconsistent with the provisions of this Ordinance or other applicable law. The Committee may, but is not required to, conduct interviews with applicants at regular meetings of the Committee. All *ex parte* communications and contacts, whether in writing or in person or by telephone or by any other means of communication, between or among any regular voting member, alternate and applicant or any person acting on behalf of the applicant are prohibited. The immediately preceding sentence shall not prevent any regular voting member or alternate from contacting any employer, institution, person submitting a recommendation or other non-relative of the applicant who might have relevant information regarding an applicant or from consulting with the Board of Commissioners, County Manager or County Attorney regarding an applicant or this Ordinance. A regular voting member or alternate who is a parent, spouse, grandparent, sibling, uncle or aunt of an applicant or who is related by marriage to the applicant or who is or was a responsible adult of the applicant shall be completely disqualified from any involvement in the investigation, consideration, evaluation and decision as to such applicant and such member or alternate shall not act in person or by proxy upon such application for a scholarship. A qualified alternate shall act on such application in place of the disqualified regular voting member or alternate. A scholarship shall be awarded to an applicant only upon a majority vote of voting members present. However, no action to award or not award a scholarship shall be made without the presence of at least seven (7) regular voting members or alternates.

(iii) *Compliance with Open Meetings Law and Public Records Law.* It is the intent of this Ordinance that the Committee comply with the requirements of the Open Meetings Law and Public Records Law of North Carolina. If any provision of this Ordinance or any procedure of the Committee is inconsistent with the Open Meetings Law or Public Records Law, then the latter laws shall control.

(iv) *Committee as Agent.* The Committee shall be an agent of Davidson County only for the purposes of investigating and evaluating applications and awarding scholarships.

Section 7: Initial Eligibility Requirements.

An applicant for a scholarship must be a resident of and be domiciled in Davidson County for at least six (6) years next preceding the time the scholarship is awarded and must be a senior attending or a graduate of a county school administrative unit, a city school administrative unit or a private school or home school who has been accepted into a post-secondary institution at the time the scholarship is awarded. An applicant who is a graduate of a county school administrative unit, a city school administrative unit or a private school or home school must be enrolled in and attending

a post-secondary institution at the time the scholarship is awarded. All applicants must have a minimum cumulative grade-point average of 2.8 or the equivalent thereof at the time of filing an application and must have declared as an education major or equivalent course of study. The grade-point average or equivalent shall refer to and shall be based upon those averages as determined by post-secondary institutions only. Applicants may attend any post-secondary institution located anywhere in the United States of America or in any territory or possession of the United States of America. The applicant must in good faith express an intent to apply for employment as a qualified teacher in a school system in Davidson County. Applicant must have never been convicted of or pled *nolo contendere* to a felony, misdemeanor, or an offense involving a crime of moral turpitude that is detrimental to or impacts the applicant's service as a teacher in a school system in Davidson County. Any person who does not meet all of the requirements set forth in this Ordinance shall not be considered for nor awarded a scholarship.

Section 8: Application.

(a) **Application Required:** No person shall be considered for or awarded a scholarship without completing and filing an application by the deadline stated in Section 8(f). There shall be no fee for a person to apply for a scholarship.

(b) **Completion of Application:** (i) *Contents.* Applications shall be on forms as approved by the Committee. Applicants shall provide the following information: (A) full name, date of birth and social security number; (B) a copy of a current North Carolina Driver's License or Identification Card or other authentic document or copy thereof bearing the applicant's residential address; (C) street or apartment or dormitory address and phone number at which applicant may currently be reached; (D) street or apartment address at which the applicant maintains domicile; (E) name of high school, private school or home school applicant attends or from which applicant graduated and address and phone number of such school; (F) copy of verification of enrollment or diploma or other certification of graduation issued by high school, private school or home school; (G) certified copy of transcript from all secondary schools, if a senior in a secondary school, or post-secondary institutions which applicant has attended and including the most recent transcript; (H) current grade-point average; (I) major course of study; (J) resume indicating academic and employment experience and extra-curricular activities in which the applicant has participated at the post-secondary institution and (K) three (3) sealed letters of recommendation from persons not related by marriage or birth to the applicant, with two of the letters being provided by the instructors of the applicant at the applicant's post-secondary institution. Additionally, each applicant shall prepare two (2) typed essays, each not exceeding two (2) double-spaced pages, and each explaining (1) why the applicant desires to pursue a career in teaching and (2) what specific changes or additions the applicant would make to the public education system and why such changes should be made. If an application states that the applicant is a graduate of a private school or home school, such applicant shall include a certification or similar statement issued by the duly authorized representative of the State of North Carolina who inspects or has inspected such private religious school or school of religious charter or home school, or if such school is a nonpublic school other than a home school, a statement of accreditation from the North Carolina State Board of

Education or the Southern Association of Independent Colleges and Schools or a statement or other evidence of membership in the North Carolina Association of Independent Schools or a sworn affidavit by the chief executive of such school that the school receives no funding from the State of North Carolina.

(ii) *Signature of Applicant.* Each applicant shall sign the application. The application of any person who has not attained the age of eighteen (18) years at the time of filing the application shall also be signed by the responsible adult of such applicant. The applicant's date of birth is requested to assure that any person who applies for a scholarship and who may enter into a contract with Davidson County has the legal capacity to enter into such contract.

(iii) *Applicant Consents to Investigation.* Each person who submits an application consents to the investigation of his or her background and authorizes the regular voting members and alternates of the Committee, the County Manager, the County Attorney and the Board of Commissioners to obtain and review all information submitted by or regarding the applicant to carry out the respective duties set forth in this Ordinance.

(c) **Disclosure of Information:** By applying for a scholarship, an applicant or responsible adult of the applicant is permitting the release of the applicant's academic record and information to Davidson County and the review of such information by Davidson County, the regular voting members and alternates of the Committee appointed by the Board of Commissioners, the Board of Commissioners, the County Manager and the County Attorney. The applicant or responsible adult of the applicant also consents to an investigation into the background of the applicant. Each application shall contain a statement acknowledging such permission which shall be signed by the applicant or responsible adult of the applicant. The filing of an application shall constitute a waiver by the applicant of any objection to the release and review of academic information or records. No such information shall be released as authorized by this Ordinance.

(d) **Public Records and Open Meetings Law May Apply:** It is the intent of this Ordinance that educational records and information submitted by the applicant shall not be available for public inspection and that the discussion of whether to award an applicant a scholarship shall not be conducted in a public meeting. ***However, all information submitted to the Committee is or may be subject to the Public Records Law of North Carolina and may be available for inspection and copying by the public as required by such law. All discussions of and actions on applications are or may be subject to the Open Meetings Law of North Carolina and may be made in a meeting open to the public as required by such law.*** All educational records of an applicant and the social security number of an applicant shall not be considered a public record and shall not be released by Davidson County nor any agent, officer or employee thereof nor any regular voting member or alternate of the Committee unless required by law.

(e) **Duty to Provide Accurate and Truthful Information:** Every applicant shall certify that the information provided in the application is true and complete to the

knowledge of the applicant and that the applicant is acting in good faith. The applicant shall have a continuing duty to supplement or correct any answers during the pendency of an application. Any person who willfully or knowingly provides false or inaccurate information or willfully or knowingly fails to supplement or correct such answers if such failure would result in any answer being false or inaccurate shall be in violation of this Ordinance and shall have committed an unlawful act. It shall be a violation of this Ordinance and an unlawful act for any applicant to obtain a scholarship award or accept a scholarship award by willfully or knowingly using or relying upon false or inaccurate information or other fraudulent means. It shall be a violation of this Ordinance and an unlawful act for any person to assist an applicant in obtaining or to obtain on behalf of an applicant or any other person a scholarship award or accept a scholarship award by willfully or knowingly using or relying upon false or inaccurate information or other fraudulent means. Davidson County may seek remedies for such violation as provided in Section 12.

(f) **Filing of Application:** Applications may be filed within the two established filing periods which are (1) ***January 1 to March 15*** and (2) ***September 1 to November 15***. Applications must be filed in the Office of the County Manager of Davidson County, Davidson County Governmental Center, Fourth Floor, at 913 North Greensboro Street, Lexington, North Carolina. It is the intent of this subsection that applications shall be received for consideration within the dates of the filing periods.

(g) **No Property Right by Filing an Application:** The filing of an application shall not be deemed approval of such application as to form or content and shall not grant to any applicant a right to or a property interest in a scholarship. An applicant shall not be entitled to a hearing before the Board of Commissioners, the Committee or any agent, employee or officer of Davidson County on the award of a scholarship or denial of a scholarship or any appeal of any such decisions. Review of an application shall be as provided in and in accordance with the terms, provisions, rules and regulations of this Ordinance, the rules and regulations of the Committee and other applicable law.

(h) **Consent to Be Bound By Ordinance:** Each person who files an application and each person who signs a filed application consent to be bound by all the provisions, terms, rules and regulations of this Ordinance, the Committee, and the application and disclaimer form.

Section 9: Criteria for Awarding Scholarships.

(a) **General Criteria:** An application shall be evaluated and the decision to award or deny a scholarship shall be made based upon the applicant's academic achievements and record during high school, senior high school or post-secondary education, demonstrated commitment to the teaching profession and the advancement of public education, extracurricular activities or work experience and information furnished with the application. No decision to award a scholarship shall be based upon the financial need or condition of the applicant. The needs of the schools in Davidson County shall also be considered by the Committee.

(b) **Statement of Non-Discrimination:** All applications shall be considered and all scholarships shall be awarded without regard to the race, creed, ethnic origin, national origin, gender, religious belief or background, political affiliation or belief, physical disability, or age of the applicant. However, an applicant who is not at least age eighteen (18) years at the time of filing the application must have the application signed by a responsible adult of the applicant.

Section 10: Evaluation Process.

(a) **Intent:** The application review and award process is designed to assure that every applicant is assured of and afforded adequate due process and fairness.

(b) **Allocation of Awards:** The Committee shall annually award scholarships to graduates of county school administrative units; to graduates of city school administrative units; and to a graduate or graduates of a private school or home school program. The number of scholarships and the allocation of the scholarships among graduates of schools referred to above shall be as set from time to time by the Board of Commissioners. If the number of applicants in a category is less than the number of scholarships allocated to that category, then the scholarships which are not applied for in that category shall be allocated to or among those categories which have a greater number of applicants than scholarships allocated to that category. Nothing in this Ordinance requires that all scholarships be awarded.

(c) **Evaluation and Decision:** Scholarships shall be awarded on a calendar year basis. The Committee shall carefully review and consider the information submitted on the application. Any application which does not contain responses to all questions or reveals that an application does not meet the eligibility requirements as established by this Ordinance and the rules and regulations of the Committee or contains information which the applicant knows is false or inaccurate shall be rejected. Scholarships shall not be awarded to persons who file such applications. The regular voting members and alternates of the Committee are authorized to review the academic records of the applicant, contact the employers, supervisors and instructors of the applicant, persons submitting recommendations on behalf of the applicant and other persons who have information relevant to the evaluation of the applicant. The Committee shall make decisions for awarding the scholarships following its review of the scholarship applications. The Committee shall mail scholarship contracts to the applicants who are awarded scholarships. The Committee shall notify applicants who are not awarded scholarships of the Committee's decisions concerning their applications. The Committee shall make a report of its work to the Commissioners.

Section 11: Responsibilities of the Recipient.

(a) **Award of Scholarship is an Offer to Contract:** The award of a scholarship by the Committee is ***an offer by Davidson County to enter into a contract with a recipient for such recipient to obtain the benefits of this scholarship. A recipient who has been awarded a scholarship shall not obtain the benefit of the scholarship unless such recipient and responsible adult of such recipient, if required to sign the application, accepts the offer and enters into a***

contract with Davidson County as provided in Section 11(b). Davidson County may revoke an offer upon information or evidence that an applicant is not eligible or has willfully or knowingly falsified information or concealed information or has otherwise presented inaccurate information which must be disclosed pursuant to this Ordinance.

(b) **Acceptance of Offer by Recipient:** Each applicant awarded a scholarship shall receive a contract setting forth the rights and obligations of the recipient as provided in this section. Such contract shall be signed by the recipient and responsible adult agreeing to the contract and returned to the Committee by no later than thirty (30) days after the date such contract is received by the recipient, as shown by the date that is written on the return receipt card for certified mail. If the recipient is under the age of eighteen (18) years at the time the contract is offered, the contract shall be signed by the responsible adult of the recipient. Any recipient who does not return or who does not postmark delivery to the Committee within the time limit set forth herein a contract which is signed in accordance with this subsection shall be deemed to have rejected the offer by Davidson County and to have forfeited any right or interest in this scholarship.

(c) **Graduation and Certification Required:** A recipient of a scholarship shall graduate from a post-secondary institution and shall be qualified to obtain a North Carolina teacher's certification immediately following scheduled completion of the recipient's senior year at the post-secondary institution.

(d) **Employment Required:** A recipient must in good faith apply for and accept an offer of employment in a teaching position from either the Davidson County Schools, Lexington City Schools, Thomasville City Schools or a private school [as set out in Section 4(m) hereinabove] located in Davidson County by no later than six (6) months following the date on which the recipient receives a North Carolina teacher's certification. A recipient must hold a teaching position in the Davidson County Schools, Lexington City Schools, Thomasville City Schools or private school located in Davidson County for a minimum of three (3) academic years immediately following the date of hire of such recipient. Nothing in this Ordinance shall require a recipient to maintain employment in the same teaching position for the three (3) year period provided in this subsection or prevent a recipient from obtaining a teaching position in another public school or private school in Davidson County. Only the appropriate school system has the authority to hire any person; therefore, this Ordinance is not intended and shall not be construed to excuse any recipient from the obligations, policies or requirements of the school or school system which employs the recipient. Nothing in this Ordinance shall require any school or school system to offer a teaching position to a recipient or to continue an employment relationship with a recipient for any period of time. **NEITHER DAVIDSON COUNTY NOR ANY OFFICER, AGENT, OR EMPLOYEE THEREOF NOR ANY MEMBER OR ALTERNATE OF THE COMMITTEE WARRANT OR MAKE ANY PROMISE, AFFIRMATION, ASSURANCE OR GUARANTEE THAT A RECIPIENT SHALL OBTAIN OR BE OFFERED EMPLOYMENT WITH ANY SCHOOL SYSTEM.**

(e) **Notification Required:** It shall be the obligation of the recipient to notify the Clerk to the Board of Commissioners of his/her employment status as set out in

Section 11(d) no later than six (6) months following the date on which the recipient receives a North Carolina teacher's certification. Further, it shall be the responsibility of the recipient to notify the Clerk to the Board should he/she withdraw from school, be expelled from school or is, for whatever reason, unable to obtain a North Carolina teacher's certification immediately following scheduled completion of the recipient's senior year at the post-secondary institution.

(f) **Extension of Time for Good Cause Shown:** For good cause shown, a recipient who does not obtain or accept an offer of employment by the deadline stated in Section 11(d) may apply for one extension of time of no greater than one (1) year from the date of the current deadline to obtain and accept an offer of employment. Such application shall be filed in the Office of the County Manager by no later than the date of the current deadline. Upon filing a timely application, the recipient shall be entitled to a public hearing before the Board of Commissioners. The recipient shall be entitled to present evidence and witnesses to support a showing that the failure to obtain a teaching position as required by this ordinance is for good cause. The burden of showing good cause shall be on the recipient. The Board of Commissioners may grant an extension upon an affirmative finding based upon substantial, material and competent evidence that (1) the recipient has attempted diligently to obtain and accept an offer of employment as required by Section 11(d); and (2) the inability to obtain such employment is substantially related to the unavailability of teaching positions for which the recipient reasonably possesses the minimum qualifications. Good cause shall not be based upon the recipient's desire to obtain a higher level of compensation or the desire to teach at a particular school or location. During the pendency of an application filed pursuant to this subsection, a recipient may continue to seek and obtain employment with a public or private school in Davidson County. If a recipient is offered and accepts such teaching position, the recipient shall be deemed to have complied with Section 11(d) even if such offer is made and accepted after the deadline for obtaining employment set forth in Section 11(b). It is the intent of this ordinance that the timely filing of an application to extend the time limit set forth in Section 11(d) shall toll the expiration of such time.

(g) **Breach and Rescission of Contract:** A contract shall be rescinded by Davidson County if the recipient (1) fails to graduate by no later than August 30th immediately following the completion of the senior year at the post-secondary institution; or (2) fails to become qualified to obtain a North Carolina teacher's certification by no later than August 30th immediately following the recipient's senior year; or (3) does not in good faith seek employment as required in Section 11(d) and does not obtain an extension as provided in Section 11(e); or (4) if an extension is granted, does not in good faith seek employment by no later than the extended deadline; or (5) has obtained an award as the result of an intentional or knowing misstatement or response on the application; or (6) does not meet the eligibility requirements; or (7) uses any portion of the scholarship funds for purposes not authorized by Section 5, or (8) has been convicted of or pled *nolo contendere* to a felony, misdemeanor, or an offense involving a crime of moral turpitude that is detrimental to or impacts the recipient's service as a teacher in a school system in Davidson County. Each of the breaches which are listed in this subsection shall constitute a substantial and material breach of the contract. The

failures as listed herein shall entitle the County to seek those remedies as provided in Section 12 of the Ordinance.

(h) **Right to Appeal:** Prior to the rescission of a contract by Davidson County, the recipient shall receive a "Notice of Intent to Rescind Contract," addressed by certified mail to the recipient. The recipient shall be entitled to a public hearing before the Board of Commissioners to contest such rescission. Such hearing shall be requested in writing by no later than thirty (30) days following the date of receipt of the notice. At the hearing, the recipient shall be entitled to present evidence, cross-examine witnesses and be represented at the hearing by an attorney provided at the sole expense of the recipient. The Board of Commissioners shall rescind a contract only upon proof by a preponderance of the evidence to the satisfaction of a majority of the members present and voting at a public hearing that the recipient has breached the contract or comes within the grounds for rescission. If the recipient contests the rescission of the contract based upon an affirmative defense, the recipient shall have the burden of proving such defense by a preponderance of the evidence to the satisfaction of a majority of the members present and voting at the public hearing.

Section 12: Remedies and Legal Actions.

(a) **Civil:** If a contract is rescinded by Davidson County or by the applicant or responsible adult and the recipient has received funds, the recipient and responsible adult shall be indebted to Davidson County in the amount that is paid to the recipient. Such debt shall be recoverable by Davidson County in an appropriate legal action as provided in Section 12(c). If a legal action is initiated by the County and a judgment is obtained by Davidson County against the recipient or responsible adult, such judgment shall include costs and fees as permitted by law.

(b) **Criminal:** Any person who willfully or knowingly provides or aids or assists in the providing of false information to obtain a scholarship shall be subject to punishment for a Class 3 misdemeanor and a maximum fine of five hundred dollars (\$500.00). Any recipient who willfully or knowingly relies upon or uses false or misleading information to obtain a scholarship or enter into a contract with Davidson County shall be subject to prosecution for obtaining property by false pretenses as provided in N.C.G.S. §14-100. Any person who assists an applicant or any other person in obtaining a scholarship award or accepts a scholarship award by willfully or knowingly using or relying upon false or inaccurate information or other fraudulent means shall be subject to prosecution in accordance with the criminal laws of North Carolina. To the extent permitted by law, the criminal penalties as set forth herein are cumulative and may be imposed for the same conduct. The criminal penalties set forth herein are not exclusive.

(c) **Jurisdiction and Venue:** Any suit instituted by Davidson County may be instituted in the appropriate division of the General Court of Justice in Davidson County or, at the option of Davidson County, in such County or State where the recipient resides at the time legal action is initiated. Each person who files an application and each recipient and responsible adult who signs an application and contract consent to initiate, litigate and prosecute any action, claim or issue regarding the validity of this

Ordinance, the propriety or fairness of the application process, the grant or denial of a scholarship, or any other aspect of this Ordinance, whether based on federal, state or local law, **only** in the appropriate division of General Court of Justice of the State of North Carolina. By entering into a scholarship contract with Davidson County, the recipient and any responsible adult who signs the contract with Davidson County consent to the Courts of the State of North Carolina having personal jurisdiction over the recipient and the responsible adult and waive any objection to or defense based upon personal jurisdiction. Venue and jurisdiction over any litigation shall be **only** in the appropriate division of the General Court of Justice in Davidson County, North Carolina.

(d) **Remedies Not Exclusive:** Davidson County may enforce this Ordinance through all remedies permitted by law. The remedies as set forth herein are construed to be cumulative to the extent permitted by law.

Section 13: Miscellaneous Provisions.

(a) **Compliance with Local Government Finance Law:** The Board of Commissioners shall appropriate sufficient funds for the awarding of scholarships and the administration of this ordinance through proper enactment of such appropriations in the Davidson County Budget Ordinance or any proper amendment thereof. As required by N.C.G.S. §159-28, the Davidson County Finance Officer shall certify on each scholarship which is accepted that the contract has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

(b) **Funding:** This Scholarship Program shall be funded by donations and local revenues. Donations may be received by the Davidson County Finance Officer and placed into a scholarship fund created by the Board of Commissioners pursuant to the Davidson County Budget Ordinance.

(c) **Administration and Enforcement of this Ordinance:** It shall be the responsibility of the Committee, the County Manager, the County Attorney, the Clerk to the Board of Commissioners and the Committee, to enforce the provisions of this Ordinance. The evaluation and award of scholarships shall be the sole responsibility of the Committee and all regular voting members and alternates of the Committee shall have access to and may review all information submitted by and concerning the applicant. However, the Board of Commissioners, County Manager and County Attorney are authorized to obtain and review such information to assure compliance of all persons with this Ordinance. The County Attorney shall institute appropriate legal action to recover the amount of any scholarship received by a recipient and to seek other appropriate legal remedies. The regular voting members and alternates of the Committee shall disclose to the Board of Commissioners, County Manager and County Attorney credible information that an applicant or any other person has willfully or knowingly submitted false and inaccurate information on the application or otherwise to the Committee. Such information may be provided to the District Attorney or other appropriate law enforcement officials for possible prosecution of criminal activity as defined by this Ordinance or other law.

(d) **Address and Phone Number Correction:** Each applicant and recipient shall diligently and promptly notify Davidson County of any change in the residential or mailing address and phone number of the applicant or recipient.

(e) **Notices:** All notices, requests and other correspondence submitted by the recipient or applicant shall be mailed to the Office of the County Manager, Post Office Box 1067, Lexington, North Carolina, 27293-1067. All notices, requests and other correspondence sent by Davidson County to the recipient or applicant shall be sent by certified mail, restricted delivery to the applicant at the applicant's last known mailing address.

(f) **Severability of Provisions:** If any provision, sentence, clause or other portion of this Ordinance is declared to be invalid by a court of competent jurisdiction and venue, the remaining portions, provisions, clauses and sentences of this Ordinance which are valid shall be considered separate and apart from the invalid portions and shall continue to be in full force and effect.

(g) **Effective Date:** This Ordinance shall become effective upon adoption.

This the 25th day of August, 2015.

Todd Yates, Chairman
Board of Commissioners of Davidson County

Attested to:

Deborah J. Harris, Clerk to the Board

The Ordinance was presented at a public hearing and meeting of the Davidson County Board of Commissioners on August 25, 2015, for approval of revisions. This Ordinance was approved on its first reading on August 25, 2015, on motion of Commissioner Potts and second by Commissioner McClure, by a vote of six in favor of and zero against adoption. Pursuant to N.C.G.S. §153A-45, this Ordinance is adopted on August 25, 2015.